



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,331	04/02/2004	Philippe Verwaerde	D0590.70005US01	1140
7590 09/26/2006 MaryDilys S. Anderson, Ph.D. Wolf, Greenfield & Sacks, P.C. 600 Atlantic Avenue Boston, MA 02210			EXAMINER NGUYEN, QUANG	
			ART UNIT 1633	PAPER NUMBER

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

14

Office Action Summary for Applications Under Accelerated Examination	Application No. 10/817,331	Applicant(s) VERWAERDE ET AL.	
	Examiner Quang Nguyen, Ph.D.	Art Unit 1633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
 Since this application has been granted special status under the accelerated examination program,
 NO extensions of time under 37 CFR 1.136(a) will be permitted and a **SHORTENED STATUTORY PERIOD FOR
 REPLY IS SET TO EXPIRE:**

ONE MONTH OR THIRTY (30) DAYS, WHICHEVER IS LONGER,
 FROM THE MAILING DATE OF THIS COMMUNICATION -- if this is a non-final action or a Quayle action.
 (Examiner: For **FINAL** actions, please use PTOL-326.)

The objective of the accelerated examination program is to complete the examination of an application within twelve months from the filing date of the application. Any reply must be filed electronically via EFS-Web so that the papers will be expeditiously processed and considered. If the reply is not filed electronically via EFS-Web, the final disposition of the application may occur later than twelve months from the filing of the application.

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 3) ☒ Claim(s) 1-30 is/are pending in the application.
 3a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 4) ☐ Claim(s) ____ is/are allowed.
- 5) ☐ Claim(s) ____ is/are rejected.
- 6) ☐ Claim(s) ____ is/are objected to.
- 7) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

Application Papers

- 8) ☐ The specification is objected to by the Examiner.
- 9) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 10) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 11) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claims 1-30 are pending in the present application, and they are subjected to the following species restrictions.

Species Election/Restrictions

A. This application contains claims directed to the following patentably distinct species of a water soluble polymer in the claimed invention:

(a) carboxymethyl cellulose; (b) low melting point agarose; (c) polyethylene glycol; (d) polyvinyl alcohol; and (e) polyvinylpyrrolidone.

The species are independent or distinct because each of the aforementioned water soluble polymer is structurally distinct one from the others.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claims 2 and 5 are generic.

B. This application contains claims directed to the following patentably distinct species of a marker molecule in the claimed invention:

(a) a fluorescent molecule; (b) a luminescent molecule; (c) a coloured molecule ; (d) a fluorescent precursor molecule ; (e) a luminescent precursor molecule ; and a coloured precursor molecule.

The species are independent or distinct because each of the aforementioned marker molecule is distinct structurally one from the others, and each has different chemical properties one from the others.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claims 1-2, 5 and 8 are generic.

C. This application contains claims directed to the following patentably distinct species of a growth stage in the claimed invention:

A single specific named growth stage recited in the Markush group of claim 21.

The species are independent or distinct because each of recited growth stage is distinct one from the others.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claims 5, 20, 21 are generic.

D. This application contains claims directed to the following patentably distinct species of a nematode strain in the claimed invention:

A single specific named nematode strain recited in the Markush group of claim 23.

The species are independent or distinct because each recited nematode strain is structurally distinct one from the others.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claims 5, 23 are generic.

E. This application contains claims directed to the following patentably distinct species of a change in nematode worms in the claimed invention:

(a) phenotypic change; (b) physiological change; (c) behavioral change; and (d) biochemical change.

The species are independent or distinct because each of the recited change has distinct characteristics one from the others.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claims 1-2 and 5 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include

Art Unit: 1633

all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang Nguyen, Ph.D., whose telephone number is (571) 272-0776.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Dave Nguyen, may be reached at (571) 272-0731.

To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1633; Central Fax No. (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It

Art Unit: 1633

also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.


QUANG NGUYEN, PH.D.
PATENT EXAMINER